

The Government of the Republic of the Union of Myanmar
Ministry of Agriculture, Livestock and Irrigation
(The Procedures relating to the New Plant Variety Protection Law)

Order No. 287 /2021

The 4th Waning Day of Tawthalin, 1383 M.E.

(24 September 2021)

In exercise of the power conferred by subsection (b) of section 46 of the New Plant Variety Protection Law, the Ministry of Agriculture, Livestock and Irrigation issues the following Procedures.

CHAPTER I

Title and Definitions

1. These Procedures shall be called **the Procedures relating to the New Plant Variety Protection Law**.
2. The expressions contained in these Procedures shall have the same meanings defined in the New Plant Variety Protection Law. In addition, the following expressions shall have the meanings given below:
 - (a) **Law** means the New Plant Variety Protection Law.
 - (b) **Form** means the forms defined in these Procedures.
 - (c) **Products** means the products derived from production by using the harvested materials of a protected new plant variety.
 - (d) **Technical Committee** means the Technical Committee for a New Plant Variety Testing organized by the Central Committee under subsection (c) of section 5 of the Law to examine and remark whether a plant variety is a new plant variety or not.
 - (e) **Test Guidelines (TGs)** means the guidelines used to examine whether a plant variety is a new plant variety or not, which are documented by the International Union for the Protection of New Varieties of Plants (UPOV) or developed based on UPOV guidelines or the guidelines of other countries or developed suitability for our country.

- (f) **Distinctness, Uniformity and Stability (DUS) Examiner** means the members of the Technical Committee, the members of sub-Technical Committee and the specific crop specialists who examine whether a plant variety is a new plant variety or not.
- (g) **Acts done privately and for non-commercial purposes** means the production of a protected new plant variety of field crop on less than 5 acres, using the seeds obtained from previous cultivation for re-growing on less than 5 acres and using the products actually for home consumption in accordance with the orders and directives issued by Central Committee occasionally.
- (h) **Reasonable Opportunity** means the right which must be accepted by the plant breeder upon the negotiation of the Central Committee in claiming for his or her right in accordance with the section 30 of the Law.

CHAPTER II

Application for the Right of a New Plant Variety Protection and Recognition as a New Plant Variety

3. (a) Any plant breeder may apply for the right of a new plant variety protection in accordance with the provisions in the Law.
- (b) If a new plant variety is developed together by two or more breeders and all of the breeders have signed and applied for the right of a new plant variety protection, only the breeder or breeders with the consent of the applicants shall have the right to protect for the new plant variety.
4. A plant breeder shall follow the application procedures to apply for the right of the protection of a new plant variety as follows:
- (a) The plant breeder shall apply for a new plant variety protection to the Chairperson of the Central Committee, Ministry of Agriculture, Livestock and Irrigation, Nay Pyi Taw in application form (1).
- (b) In making such application, the application shall be made exactly as mentioned in the test guidelines for each type of plant and the fees for each type of plant designated by the Central Committee with the approval of the Ministry shall be paid.

- (c) Only the date and time according to the application number for protection of the new plant variety mentioned in the application form (1) shall be used for the right of priority.
5. (a) The Technical Committee shall preliminarily examine the application mentioned in subparagraph (a) of paragraph 4 whether it is in compliance with sections 8, 12 and 13 of the Law or not and if it is complied, the application shall be published and if there is no objection within one month, the DUS examiner shall continue to test whether the applied variety complies with the provisions of sections 9, 10 and 11 of the Law or not.
- (b) If there is a rejection due to the denomination of a new plant variety which does not comply with the provisions of sections 12 and 13 of the Law, the plant breeder shall submit other proposed denomination during three months from the rejected period.
- (c) If the new denomination shall not be submitted during prescribed period, the application shall be declared null and void automatically and reapplication may be made with new date.
- (d) The name of a new plant variety shall be registered in the Central Committee from the time of the granting of a plant breeder's right.
- (e) In the examination of the application whether it complies with the provisions of sections 9, 10 and 11 of the Law or not mentioned in the subparagraph (a), the DUS examiners shall examine an applied variety by using one of the methods mentioned in the section 18 (b) of the Law, and analyze the recorded data and report to the Central Committee with remark, and the Central Committee shall announce it to the public.
- (f) If there is no objection by the public within one month, the Central Committee shall issue a recognition certificate to a plant breeder for the protection of a new plant variety in form (2).
- (g) If the Central Committee decides to reject the recognition as a new plant variety, the rejection shall be informed to the plant breeder.
- (h) The plant breeder shall pay the annual fee designated by the Central Committee with the approval of the Ministry for a protected new plant variety.

CHAPTER III

Right of Priority and Provisional Protection

6. According to section 20 of the Law, if a plant breeder wants to apply for the right of priority, he or she shall apply for it in form (3).
7. (a) When two or more plant breeders apply for granting of a plant breeder's right of a new plant variety for the same new plant variety with different application dates, only the first applicant shall have a right of priority according to application number.
(b) In the application for granting of a plant breeder's right, the right for protection of a new plant variety shall not be granted if there is no agreement by the applicants although they have the right of priority according to application number as mentioned in subparagraph (a).
8. (a) Subject to provisional protection in section 22 of the Law if a plant breeder wants to withdraw the provisional protection or there are the grounds for cancellation, the Central Committee shall announce the cancellation to the public.
(b) During the provisional protection period, if there is the reimbursement of losses for the users of this provisional protected new plant variety due to dishonest manner of the breeder, the breeder shall follow with the decision of the Central Committee.

CHAPTER IV

Inspection to Propagation on Own Holding and Unauthorized Use of a Protected New Plant Variety

9. (a) Under section 27 (b) of the Law, the permitted amount and type of the crops in relation to acts done privately and for non-commercial purposes such as propagation of the protected new plant variety on the farmers' own holdings, home consumption of the product of the harvest which is obtained by planting the protected variety on their own holdings etc., may be designated by the additional orders and directives.
(b) The Central Committee may issue the order and notification for the permitted amount, if necessary.
10. Under section 27 (b) of the Law, if a plant breeder requests to monitor whether a grower propagates a protected new plant variety on his or her own holdings and acts for home

consumption of the product which is obtained by planting the protected variety on his or her own holding with the permitted amount or not which is designated by the additional orders and directives, the Central Committee may assign duty to Technical Committee.

11. If a plant breeder requests to check whether any person acts done for commercial purposes, for experimental purposes, for propagation of the protected new plant variety on his or her own holdings with the permitted amount in this procedure and for the purpose of the breeding other varieties under section 28 of the Law or not, the members of the Technical Committee shall inspect these.
12. The members of the Technical Committee shall inspect it if a plant breeder requests to inspect whether a person operates properly a new plant variety exempted in accordance with section 29 (a) of the Law.

CHAPTER V

Restriction for Public Interest and Reasonable Opportunity

13. In urgent situations of exception of the plant breeder's right (e.g. natural disaster and pandemic) under section 30 of the Law, the plant breeder may follow the negotiation of Central Committee for public interest when he or she claims reasonable opportunity from organization authorized by the Central Committee.
14. The Central Committee may make a decision for reasonable opportunity based on:
 - (a) losses due to natural disaster,
 - (b) risk situations for the user of a new plant variety due to this natural disaster, and
 - (c) permitted amount by the plant breeder's investment.

CHAPTER VI

MISCELLANEOUS

15. The Central Committee and the Technical Committee shall hold regular meetings and, if necessary, hold special meetings.
16. If the relevant prosecuting body requests the recommendations whether a plant variety is a new plant variety or not, the Central Committee shall evaluate and respond to them.

17. If there is reimbursement of losses for the users of the protected new plant variety due to dishonest manner of the breeder, the breeder shall follow the decision of the Central Committee.

Tin Htut Oo

Union Minister

Ministry of Agriculture, Livestock and Irrigation

----- Footnote -----

* စိုက်ပျိုးရေး၊ မွေးမြူရေးနှင့် ဆည်မြောင်းဝန်ကြီးဌာန၏ဘာသာပြန်ဆိုချက်အားဖော်ပြခြင်းဖြစ်ပါသည်။

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[ATTACH LIST 1] 01 ပုံစံ (၁)

[ATTACH LIST 2] 02 ပုံစံ (၂)

[ATTACH LIST 3] 03 ပုံစံ (၃)